

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

ROBERT PSENKA, JEFF RODD and
OZARK ENCLAVE PROPERTIES, and
J and J DEVELOPMENT, INC.

PLAINTIFF

V.

NO. 5:05-cv-5200-RTD

HAYS FAMILY TRUST, HERMAN GROVER
HAYES, VERA L. HAYES, EVERETT HAYES,
JOEL HAYES, LINDA HAYES, TIM HAYES and
SANDRA McNEIL

DEFENDANT

O R D E R

Before the court is the motion of plaintiffs ROBERT PSENKA, JEFF RODD and OZARK ENCLAVE PROPERTIES, and J and J DEVELOPMENT, INC., to compel discovery from defendants HAYS FAMILY TRUST, HERMAN GROVER HAYES, VERA L. HAYES, EVERETT HAYES, JOEL HAYES, LINDA HAYES, TIM HAYES and SANDRA McNEIL) (Doc. 31) filed May 3, 2007 and a Second Motion to Compel (Doc. 34) filed May 10, 2007. No response to either motion was filed by any of the Defendants.

This is an action for Breach of Contract and Tortious Interference with Business Expectancies (Doc. 1) filed December 12, 2005. The case was originally set for trial on July 7, 2006. (Doc. 17) A settlement conference was originally set for January 18, 2007. (Doc. 18) The trial was rescheduled for June 18, 2007, (Doc. 20) and the settlement conference was reset for April 10, 2007. (Doc. 21) The Plaintiff's appeared at the settlement conference on April 10, 2007 but the Defendant's did not appear.

Parties may obtain discovery regarding any matter that is relevant to the claim or defense of any party. Fed.R.Civ.P. 26(b)(1). Relevant information need not be admissible at trial if the

discovery appears **reasonably calculated** to lead to the discovery of admissible evidence. *Id.*

The Plaintiff has sought discovery by written interrogatories to which the Defendant has not responded and has not filed any objections to. The court has not been furnished copies of the interrogatories but the Defendant has not filed any response to either the first Motion to Compel or the second Motion to Compel

The court finds that the Defendant has not responded to the Plaintiff's Interrogatories and the Defendant has not shown any just cause for the failure to respond. The Defendant's Motion to Compel is therefore **GRANTED**.

The Defendant is ORDERED to respond to the Interrogatories by June 8, 2007. Failure to respond to the Interrogatories propounded to the Defendant may result in sanctions being entered by the court under Rule 37 of the Federal Rules of Civil Procedure.

IT IS SO ORDERED this 15th day of May, 2007.

/s/ J. Marschewski
James R. Marschewski
United States Magistrate Judge